

**Senate File 2382 - Introduced**

SENATE FILE 2382

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2103)

**A BILL FOR**

1 An Act relating to fuel, including standards for biodiesel  
2 blended fuel, and excise taxes imposed upon special fuel,  
3 including biodiesel fuel and diesel fuel used in the  
4 production of biodiesel blended fuel.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 214A.2, subsection 4, paragraph b,  
2 Code Supplement 2009, is amended by adding the following new  
3 subparagraph:

4 NEW SUBPARAGRAPH. (4) Biodiesel blended fuel designated as  
5 from B-6 through B-20 must conform to A.S.T.M. international  
6 specification D7467 or a successor A.S.T.M. international  
7 specification as established by rules adopted by the  
8 department.

9 Sec. 2. Section 452A.2, Code 2009, is amended by adding the  
10 following new subsections:

11 NEW SUBSECTION. 3A. "*Biodiesel producer*" means a person who  
12 produces at least one hundred thousand gallons of biodiesel on  
13 a calendar year basis from a production facility and which is  
14 required to be licensed pursuant to this division.

15 NEW SUBSECTION. 9A. "*Diesel fuel*" means the same as defined  
16 in section 214A.1.

17 Sec. 3. Section 452A.2, subsection 29, Code 2009, is amended  
18 to read as follows:

19 29. "*Nonterminal storage facility*" means a facility where  
20 motor fuel or special fuel, other than liquefied petroleum  
21 gas, is stored that is not supplied by a pipeline or a marine  
22 vessel. "*Nonterminal storage facility*" includes a facility that  
23 manufactures products such as ~~ethanol as defined in section~~  
24 ~~214A.1~~, biofuel, blend stocks, or additives which may be used  
25 as motor fuel or special fuel, other than liquefied petroleum  
26 gas, for operating motor vehicles or aircraft.

27 Sec. 4. Section 452A.3, subsection 3, Code Supplement 2009,  
28 is amended to read as follows:

29 3. a. For the privilege of operating motor vehicles or  
30 aircraft in this state, there is imposed an excise tax on the  
31 use of special fuel in a motor vehicle or aircraft.

32 (1) The tax rate on special fuel for diesel engines of motor  
33 vehicles is twenty-two and one-half cents per gallon. The tax  
34 rate on biodiesel fuel for diesel engines of motor vehicles  
35 shall be determined on a gross volume basis by all persons

1 except a biodiesel producer. A biodiesel producer shall remit  
2 the tax on a volume basis with the gross metered gallons  
3 adjusted to sixty degrees Fahrenheit.

4 (2) The rate of tax on special fuel for aircraft is three  
5 cents per gallon.

6 (3) On all other special fuel, unless otherwise specified in  
7 this section, the per gallon rate is the same as the motor fuel  
8 tax.

9 b. Indelible dye meeting United States environmental  
10 protection agency and internal revenue service regulations  
11 must be added to special fuel before or upon withdrawal at a  
12 terminal or refinery rack for that special fuel to be exempt  
13 from tax and the dyed special fuel may be used only for an  
14 exempt purpose.

15 Sec. 5. Section 452A.17, subsection 1, paragraph a, Code  
16 Supplement 2009, is amended by adding the following new  
17 subparagraph:

18 NEW SUBPARAGRAPH. (11) Diesel fuel used by a nonterminal  
19 storage facility to blend with biodiesel to produce biodiesel  
20 blended fuel, if the biodiesel blended fuel is distributed  
21 to a blender licensed pursuant to section 452A.6 who is also  
22 required to pay the excise tax on that same diesel fuel.

23 Sec. 6. Section 452A.86, Code 2009, is amended to read as  
24 follows:

25 **452A.86 Method of determining gallonage.**

26 1. The exclusive method of determining gallonage of  
27 any purchases or sales of motor fuel, undyed special fuel,  
28 compressed natural gas, or liquefied petroleum gas as defined  
29 in this chapter and distillate fuels shall be on a gross  
30 volume basis. A temperature-adjusted or other method shall  
31 not be used, except as it applies to biodiesel sold by a  
32 biodiesel producer, liquefied petroleum gas and, or the sale  
33 or exchange of petroleum products between petroleum refiners.  
34 All invoices, bills of lading, or other records of sale or  
35 purchase and all returns or records required to be made,

1 kept, and maintained by a supplier, restrictive supplier,  
2 importer, exporter, blender, or compressed natural gas or  
3 liquefied petroleum gas dealer or user shall be made, kept, and  
4 maintained on the gross volume basis.

5 2. For purposes of this section, "*distillate fuels*" means  
6 any fuel oil, gas oil, topped crude oil, or other petroleum  
7 oils derived by refining or processing crude oil or unfinished  
8 oils which have a boiling range at atmospheric pressure which  
9 falls completely or in part between five hundred fifty and  
10 twelve hundred degrees Fahrenheit.

11 EXPLANATION

12 GENERAL. This bill relates to fuel and specifically  
13 biodiesel fuel which includes 100 percent biodiesel and  
14 biodiesel fuel blended with diesel fuel. It amends provisions  
15 in Code chapter 214A which regulates the content of biodiesel  
16 blended fuel and Code chapter 452A which provides for an excise  
17 tax imposed upon biodiesel fuel.

18 SPECIFICATIONS. The bill adopts A.S.T.M. specification  
19 D7467 for biodiesel blended fuel containing between six to 20  
20 percent biodiesel, referred to as B-6 through B-20. (Code  
21 section 214A.2).

22 BIODIESEL PRODUCERS — EXCISE TAX RATE ON BIODIESEL. The  
23 bill applies to a biodiesel producer who is licensed by the  
24 department of revenue and who produces at least 100,000 gallons  
25 of biodiesel on a calendar year basis. The bill applies to the  
26 excise tax imposed on biodiesel sold by a biodiesel producer  
27 (see generally Code sections 214A.1 and 214A.2). Generally, an  
28 excise tax is imposed on each gallon of motor fuel, including  
29 biodiesel fuel (Code section 452A.3) on a gross volume basis  
30 without adjustment (Code section 452A.86). The bill does not  
31 directly change the excise tax imposed on biodiesel fuel,  
32 but changes how the gallonage is calculated at the meter of  
33 a biodiesel producer, by requiring that the excise tax be  
34 assessed after adjusting the biodiesel's temperature to 60  
35 degrees Fahrenheit.

1 REFUND OF EXCISE TAX PAID ON DIESEL FUEL PAID BY NONTERMINAL  
2 STORAGE FACILITIES. A person who manufactures a biofuel,  
3 including ethanol or biodiesel for distribution, is classified  
4 as a nonterminal storage facility (Code section 452A.2). A  
5 nonterminal storage facility is required to pay an excise  
6 tax on diesel fuel used in producing biodiesel blended fuel.  
7 The bill provides that the nonterminal storage facility is  
8 entitled to a refund of the excise tax paid on diesel fuel if  
9 the biodiesel blended fuel is distributed to a licensed blender  
10 (Code section 452A.6) who must pay the excise tax on that same  
11 diesel fuel.